

1 A bill to be entitled

2 An act relating to programs of the Department of Children
3 and Family Services; amending s. 397.451, F.S.; requiring
4 service provider personnel who request an exemption from
5 disqualification to submit the request within a certain
6 time after notification of the disqualification; requiring
7 a service provider to comply with the provisions of s.
8 435.06, F.S.; deleting a provision requiring immediate
9 dismissal of service provider personnel upon disapproval
10 of a request for an exemption; prohibiting the department
11 from issuing a regular license to a service provider that
12 fails to provide proof that background screening
13 information has been submitted; repealing s. 3, ch. 2003-
14 279, Laws of Florida; abrogating the repeal of s.
15 20.19(2)(c) and (4)(b)6. and 8., F.S., relating to the
16 appointment of certain mental health and substance abuse
17 positions and the establishment of program offices for
18 mental health and substance abuse; amending s. 394.455,
19 F.S.; revising the definition of the term "service
20 provider" and providing a definition of the term "marriage
21 and family therapist"; amending s. 394.463, F.S.;
22 providing that a marriage and family therapist may execute
23 a certificate for involuntary examination; amending s.
24 394.4655, F.S.; providing that a marriage and family
25 therapist may deem a services treatment plan clinically
26 appropriate for an involuntary outpatient placement;
27 amending s. 394.467, F.S.; requiring that documentation of
28 any evaluation performed by a marriage and family
29 therapist be provided when a patient is ordered for

PCB FFF 06-04

Redraft - A

2006

involuntary inpatient placement; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (f) of subsection (1) of section 397.451, Florida Statutes, is amended, and paragraph (g) is added to that subsection, to read:

397.451 Background checks of service provider personnel.--

(1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND EXCEPTIONS.--

(f) Service provider personnel who request an exemption from disqualification must submit the request within 30 days after being notified of the a pending disqualification. Upon notification of the disqualification, the service provider shall comply with the requirements regarding exclusions from employment under s. 435.06. The employment of service provider personnel shall not be adversely affected pending disposition of the request for an exemption. Disapproval of a request for an exemption shall result in the immediate dismissal of the service provider personnel from employment with the provider.

(g) The department may not issue a regular license to any service provider that fails to provide proof that background screening information has been submitted in accordance with chapter 435.

Section 2. Section 3 of chapter 2003-279, Laws of Florida, is repealed.

Section 3. Effective July 1, 2006, subsection (31) of section 394.455, Florida Statutes, is amended, and subsection

PCB FFF 06-04

Redraft - A

2006

(34) is added to that section, to read:

394.455 Definitions.--As used in this part, unless the context clearly requires otherwise, the term:

(31) "Service provider" means any public or private receiving facility, an entity under contract with the Department of Children and Family Services to provide mental health services, a clinical psychologist, a clinical social worker, a marriage and family therapist, a physician, a psychiatric nurse as defined in subsection (23), or a community mental health center or clinic as defined in this part.

(34) "Marriage and family therapist" means a person licensed as a marriage and family therapist under chapter 491.

Section 4. Effective July 1, 2006, paragraph (a) of subsection (2) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.--

(2) INVOLUNTARY EXAMINATION.--

(a) An involuntary examination may be initiated by any one of the following means:

1. A court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination, giving the findings on which that conclusion is based. The ex parte order for involuntary examination must be based on sworn testimony, written or oral. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer, or other designated agent of the court, shall take the person into custody and deliver him or her to the nearest receiving facility for involuntary examination. The order of the court shall be made a part of the

PCB FFF 06-04

Redraft - A

2006

88 patient's clinical record. No fee shall be charged for the filing
89 of an order under this subsection. Any receiving facility
90 accepting the patient based on this order must send a copy of the
91 order to the Agency for Health Care Administration on the next
92 working day. The order shall be valid only until executed or, if
93 not executed, for the period specified in the order itself. If no
94 time limit is specified in the order, the order shall be valid
95 for 7 days after the date that the order was signed.

96 2. A law enforcement officer shall take a person who
97 appears to meet the criteria for involuntary examination into
98 custody and deliver the person or have him or her delivered to
99 the nearest receiving facility for examination. The officer shall
100 execute a written report detailing the circumstances under which
101 the person was taken into custody, and the report shall be made a
102 part of the patient's clinical record. Any receiving facility
103 accepting the patient based on this report must send a copy of
104 the report to the Agency for Health Care Administration on the
105 next working day.

106 3. A physician, clinical psychologist, psychiatric nurse,
107 mental health counselor, marriage and family therapist, or
108 clinical social worker may execute a certificate stating that he
109 or she has examined a person within the preceding 48 hours and
110 finds that the person appears to meet the criteria for
111 involuntary examination and stating the observations upon which
112 that conclusion is based. If other less restrictive means are not
113 available, such as voluntary appearance for outpatient
114 evaluation, a law enforcement officer shall take the person named
115 in the certificate into custody and deliver him or her to the
116 nearest receiving facility for involuntary examination. The law

PCB FFF 06-04

Redraft - A

2006

enforcement officer shall execute a written report detailing the circumstances under which the person was taken into custody. The report and certificate shall be made a part of the patient's clinical record. Any receiving facility accepting the patient based on this certificate must send a copy of the certificate to the Agency for Health Care Administration on the next working day.

Section 5. Effective July 1, 2006, paragraphs (a) and (c) of subsection (2) of section 394.4655, Florida Statutes, are amended to read:

394.4655 Involuntary outpatient placement.--

(2) INVOLUNTARY OUTPATIENT PLACEMENT.--

(a)1. A patient may be retained by a receiving facility upon the recommendation of the administrator of a receiving facility where the patient has been examined and after adherence to the notice of hearing procedures provided in s. 394.4599. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary outpatient placement are met. However, in a county having a population of fewer than 50,000, if the administrator certifies that no psychiatrist or clinical psychologist is available to provide the second opinion, the second opinion may be provided by a licensed physician who has postgraduate training and experience in diagnosis and treatment of mental and nervous disorders or by a psychiatric nurse as defined in this chapter. Such a recommendation must be entered on an involuntary outpatient placement certificate, which certificate must authorize the

receiving facility to retain the patient pending completion of a hearing. The certificate shall be made a part of the patient's clinical record.

2. If the patient has been stabilized and no longer meets the criteria for involuntary examination pursuant to s. 394.463(1), the patient must be released from the receiving facility while awaiting the hearing for involuntary outpatient placement. Prior to filing a petition for involuntary outpatient treatment, the administrator of a receiving facility or a designated department representative shall identify the service provider that will have primary responsibility for service provision under an order for involuntary outpatient placement, unless the person is otherwise participating in outpatient psychiatric treatment and is not in need of public financing for that treatment, in which case the individual, if eligible, may be ordered to involuntary treatment pursuant to the existing psychiatric treatment relationship.

3. The service provider shall prepare a written proposed treatment plan in consultation with the patient or the patient's guardian advocate, if appointed, for the court's consideration for inclusion in the involuntary outpatient placement order. The service provider shall also provide a copy of the proposed treatment plan to the patient and the administrator of the receiving facility. The treatment plan must specify the nature and extent of the patient's mental illness. The treatment plan must address the reduction of symptoms that necessitate involuntary outpatient placement and include measurable goals and objectives for the services and treatment that are provided to treat the person's mental illness and to assist the person in

PCB FFF 06-04

Redraft - A

2006

175 living and functioning in the community or to attempt to prevent
176 a relapse or deterioration. Service providers may select and
177 provide supervision to other individuals to implement specific
178 aspects of the treatment plan. The services in the treatment plan
179 must be deemed to be clinically appropriate by a physician,
180 clinical psychologist, psychiatric nurse, marriage and family
181 therapist, or clinical social worker, as defined in this chapter,
182 who consults with, or is employed or contracted by, the service
183 provider. The service provider must certify to the court in the
184 proposed treatment plan whether sufficient services for
185 improvement and stabilization are currently available and whether
186 the service provider agrees to provide those services. If the
187 service provider certifies that the services in the proposed
188 treatment plan are not available, the petitioner may not file the
189 petition.

190 (c)1. The administrator of the treatment facility shall
191 provide a copy of the involuntary outpatient placement
192 certificate and a copy of the state mental health discharge form
193 to a department representative in the county where the patient
194 will be residing. For persons who are leaving a state mental
195 health treatment facility, the petition for involuntary
196 outpatient placement must be filed in the county where the
197 patient will be residing.

198 2. The service provider that will have primary
199 responsibility for service provision shall be identified by the
200 designated department representative prior to the order for
201 involuntary outpatient placement and must, prior to filing a
202 petition for involuntary outpatient placement, certify to the
203 court whether the services recommended in the patient's discharge

PCB FFF 06-04

Redraft - A

2006

plan are available in the local community and whether the service provider agrees to provide those services. The service provider must develop with the patient, or the patient's guardian advocate, if appointed, a treatment or service plan that addresses the needs identified in the discharge plan. The plan must be deemed to be clinically appropriate by a physician, clinical psychologist, psychiatric nurse, marriage and family therapist, or clinical social worker, as defined in this chapter, who consults with, or is employed or contracted by, the service provider.

3. If the service provider certifies that the services in the proposed treatment or service plan are not available, the petitioner may not file the petition.

Section 6. Effective July 1, 2006, paragraph (e) of subsection (6) of section 394.467, Florida Statutes, is amended to read:

394.467 Involuntary inpatient placement.--

(6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.--

(e) The administrator of the receiving facility shall provide a copy of the court order and adequate documentation of a patient's mental illness to the administrator of a treatment facility whenever a patient is ordered for involuntary inpatient placement, whether by civil or criminal court. The ~~Such~~ documentation shall include any advance directives made by the patient, a psychiatric evaluation of the patient, and any evaluations of the patient performed by a clinical psychologist, a marriage and family therapist, or a clinical social worker. The administrator of a treatment facility may refuse admission to any patient directed to its facilities on an involuntary basis,

| PCB FFF 06-04

Redraft - A

2006

233 | whether by civil or criminal court order, who is not accompanied
234 | at the same time by adequate orders and documentation.

235 | Section 7. Except as otherwise expressly provided in this
236 | act, this act shall take effect upon becoming a law.